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BEFORE THE ALBUQUERQUE-BERNALILLO COUNTY
AIR QUALITY CONTROL BOARD

IN THE MATTER OF THE PETITION TO AMEND 20.11.3 NMAC, *TRANSPORTATION CONFORMITY,* AND INCORPORATE SAID AMENDMENTS INTO THE NEW MEXICO STATE IMPLEMENTATION PLAN FOR AIR QUALITY(SIP)

AQCB Petition No. 2012-4

Air Quality Division,
Environmental Health Department,
City of Albuquerque, Petitioner

CITY OF ALBUQUERQUE'S NOTICE OF INTENT TO PRESENT TECHNICAL TESTIMONY

Pursuant to 20.11.82 NMAC, *Rulemaking Procedures – Air Quality Control Board*, the City of Albuquerque Environmental Health Department, Air Quality Division ("the Division") hereby submits its Notice of Intent to present technical testimony (NOI) in this proceeding.

1. **The person for whom the witness will testify.**

City of Albuquerque Environmental Health Department, Air Quality Division

2. **The name and qualifications of each technical witness.**

Neal T. Butt. Environmental Health Scientist, Control Strategies Section, Air Quality Division. M.S. Biology (Wildlife Biology), University of North Dakota; B.S. Biology (Zoology), University of New Mexico; B.A. Environmental Planning & Design, UNM; A.A.S. Criminal Justice, Central New Mexico Community College; A.A.S. Environmental Protection Technology, CNM; WERC Waste Management Certificate, UNM Chemical & Nuclear Engineering Department. Employed by the City of Albuquerque's Environmental Health Department for 15 + years; the last 11 of which have been in the Air Quality Division. Chief

responsibility is the promulgation of air quality regulations for implementation within the County of Bernalillo.

3. <u>Summary and Estimated Duration of Testimony</u>

Mr. Butt's written testimony is attached as AQD Exhibit # 4. Mr. Butt will testify that this revision to the SIP should be approved.

The Division is proposing these amendments in response to the promulgation by the U.S. Environmental Protection Agency (EPA) of an amended federal transportation conformity rule. On March 14, 2012, the EPA promulgated changes to the transportation conformity rule. This rule became effective on April 13, 2012 [FR Vol. 77, No. 50, 14979-14988]. In response, and as required by EPA, the AQD is proposing amendments to update the local conformity regulation.

EPA's updated rule:

The EPA has finalized changes to the transportation conformity rule to make the rule apply to any future new or revised National Ambient Air Quality Standards (NAAQS). The final rule restructures two sections of the transportation conformity rule so that existing requirements will apply for any new or revised NAAQS. Restructuring these sections will reduce the need to amend the rule in the future merely to reference a specific NAAQS and will provide more certainty to transportation planners without compromising environmental benefits. This final rule ensures that air quality is protected and clarifies requirements for implementers. EPA has worked closely with the U.S. Department of Transportation to develop this final rule.

Background

Transportation conformity is a Clean Air Act requirement that ensures that federally supported highway and transit projects are consistent with applicable State Implementation Plans (SIPs). Conformity helps protect public health through early consideration of the potential air quality impacts of transportation decisions in places where air quality does not currently meet federal standards or has not met them in the past.

Key Elements of the Final Rule

The final rule primarily restructures two sections of the conformity rule, 20.11.3.109 NMAC [40 CFR 93.109] and 20.11.3.119 NMAC [40 CFR 93.119], so that the existing rule requirements clearly apply to areas designated for future new or revised NAAQS, thus reducing the need to amend the transportation conformity rule merely to reference specific new NAAQS. As a result of these changes, the conformity rule will apply to any new NAAQS that EPA establishes in the future. This rule also allows $PM_{2.5}$ areas with clean air quality data to take advantage of conformity flexibilities that are currently available only to ozone areas. A detailed comparison of the proposed transportation conformity rule restructuring amendments to the current rule is shown in the table generated by EPA shown in AQD Exhibit # 7.

Health and Environmental Benefits

The final rule ensures that transportation activities are consistent with air quality goals of the transportation conformity program. The final rule ensures that all nonattainment and maintenance areas use conformity tests that ensure air quality progress continues in areas that need to attain or maintain the NAAQS.

4. Text of Recommended Revisions to the New Mexico State Implementation Plan

The Division recommends adoption of the proposed amendments to 20.11.3 NMAC, *Transportation Conformity* as proposed in the Public Review Draft, shown as AQD Exhibit # 1a, which is attached to the Petition to Amend, filed June 26, 2012, shown as AQD Exhibit # 1, and as amended the Staff Proposed Floor Amendments shown as AQD Exhibit # 5. Mr. Butt's testimony is anticipated to take approximately 30 minutes.

5. List and Description of Exhibits

The Division has attached the following exhibits to this Notice of Intent:

Exhibit Number	Title of Exhibit
AQD Exhibit 1	Petition to Amend 20.11.3 NMAC, *Transportation Conformity*
AQD Exhibit 1a	Public Review Draft 20.11.3 NMAC, *Transportation Conformity* {attached to AQD Exhibit 1}
AQD Exhibits 2a/b/c	Notice of Proposed Rulemaking: Albuquerque Journal, 7/15/12 {2a}; NM Register, 7/31/12 {2b}; and Air Quality Announce List Serve, 7/31/12 {2c}
AQD Exhibits 3a/b	Compliance with notice requirements of 20.11.3.105.C.(2) NMAC: Metropolitan Transportation Board (MTB), {3a}; Transportation Conformity Technical Committee (TCTC), {3b}
AQD Exhibit 4	Direct Testimony
AQD Exhibit 5	Staff Proposed Floor Amendments

AQD Exhibit 6 Comments Received: EPA

AQD Exhibit 7 Transportation Conformity Rule Restructuring Amendments Comparison Table [EPA-420-B-12-012, February 2012]

6. **Reservation of Rights**

This Notice of Intent to Present Technical Testimony is based on the Division's Petition. The Division reserves the right to call any person to testify and to present any exhibit in response to another notice of intent or public comment filed in this matter or to any testimony or exhibit offered at the public hearing. The Division also reserves the right to call any person as a rebuttal witness and to present any exhibit in support thereof.

Respectfully submitted,

Neal Butt
Environmental Health Scientist
Air Quality Division
Environmental Health Department
One Civic Plaza, NW, Suite 3023
Albuquerque, New Mexico 87103
(505) 768-2660

CERTIFICATION

I hereby certify that on August 28, 2012, an original and nine copies of this Notice of Intent to present technical testimony (NOI), with attached exhibits were delivered to the following person for filing.

Elizabeth Jones
Air Quality Control Board Liaison
Air Quality Division
Environmental Health Department
One Civic Plaza, NW, Room 3023
Albuquerque, New Mexico 87103

And that on August 28, 2012, a copy of this NOI with attached exhibits was sent to the Attorney for the Board, Bill Grantham, at the following e-mail address:

Bill.grantham@state.nm.us

Neal Butt
Environmental Health Scientist
Air Quality Division
Environmental Health Department